

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN RE:
JOYCE FEUERSTEIN,
Debtor

CASE NO. 18-12223
CHAPTER 13

OPPOSITION OF CREDITOR
MIDDLESEX FEDERAL SAVINGS
TO DEBTOR'S MOTION TO
EXTEND AUTOMATIC STAY

Secured creditor Middlesex Federal Savings, F.A. ("Middlesex Federal") hereby OPPOSES the debtor, Joyce Feuerstein's ("Debtor") Motion to Extend the Automatic Stay (document 17).

As reason therefor, Middlesex Federal asserts that Debtor's current c. 13 petition, her second such filing within the past year, is not filed in good faith, as is required by law.

Debtor's initial c. 13 petition (No. 18-10890) was filed on or about March 13, 2018, and DISMISSED by this Court by order dated April 18, 2018 for failure to file: an Attorney Disclosure Statement, c. 13 Plan, Statement of Financial Affairs, Summary of Assets and Liabilities, c. 13 Agreement, Statement of Current Monthly Income and Calculation of Commitment Period Form 122 C-1, and evidence of Current and Sufficient Liability and Property Insurance. These had been initially ordered on March 14, 2018 to be filed on or before March 28, 2018; upon Debtor's request were ordered on March 19, 2018 to be filed on or before March 26, 2018; upon Debtor's request were ordered on March 26, 2018 to be filed on or before March 27, 2018; upon Debtor's request were ordered on March 28, 2018 to be filed on or before April 11, 2018; and upon Debtor's request were finally ordered on April 11, 2018 to be filed on or before April 17, 2018 .

Her current petition was filed on June 13, 2018.

She failed to make the required monthly installment of principal and/or interest on either of the mortgage loans she owes Middlesex Federal, as will be detailed below.

It appears to Middlesex Federal that on June 13, 2018 this Court ordered Debtor to file required schedules and her Plan on or before June 27, 2018, and upon the request for an extension by the Debtor, ordered that these be filed on or before July 10, 2018. As of the date of this Opposition, no such filing has occurred. She has had many months to gather the necessary information to enable her to file these required documents.

A foreclosure auction of her condominium commonly known as Unit 1, 598-600 Huron Street, Cambridge, MA had originally been scheduled for the morning of March 14, 2018, but was postponed as the result of her initial c. 13 filing at 4:30 p.m. the day before.

That foreclosure auction of Unit 1 is currently scheduled for 11:00 a.m., August 2, 2018.

The statement contained in the Debtor's pleadings to the effect that only \$44,279.46 is owed to Middlesex Federal is not true and may be intended to mislead the Court.

Middlesex Federal holds a first mortgage encumbering Unit 1 (as well as Unit 3 and another property Debtor owns in Cotuit, MA) with an outstanding balance of approximately \$466,837.00. At her request, a statement was delivered to her on June 11, 2018 reflecting this amount, a copy of which is attached to this Opposition.

Middlesex Federal also holds a second mortgage encumbering both Unit 1 and Unit 3 in the amount she correctly informed the court - \$44,279.46 as of June, 2018.

The condominium association advises that she owes approximately \$24,000 in common area charges.

Although she has indicated in her pleadings that Unit 3 has been listed as being for sale with the Multiple Listing Service through the offices of an independent broker, she has advised Middlesex Federal on a number of occasions that she is acting as the sole broker for the sale of this unit.

Were she to attempt to privately sell Unit 3 for \$510,000, she would presumably not owe a broker's commission – but she would need to pay outstanding real estate taxes of approximately

\$2,400.00, the outstanding balance of the first mortgage of \$466,837.00, the outstanding balance due the condominium association of \$24,000, and the outstanding balance of the second mortgage of \$44,300.00: **Minimum TOTAL proceeds needed to sell Unit 3: \$537,537.**

In addition, she has been telling Middlesex Federal for more than a year that she intends to sell one (1) or more of her properties, and fully or partially pay her outstanding debt, but she has not done so.

She does not own the "Contingency Plan" property she mentions in her pleadings – she has only an 11.7 % interest in that Beacon Street, Boston property – which is apparently tied up in Probate Court – with no indication as to when a sale might occur, no reliable estimate of its value, and no indication as to the extent of any encumbrances. Santander Bank, N.A. has recently filed a notice of claim indicating that it is owed \$90,703.00 on a note secured by a mortgage on that condominium.

The Debtor has not presented evidence to this Court that any of her circumstances have changed since the filing and dismissal of her previous filing. She has not claimed that her failure to file required schedules and Plan was the fault of anyone but her. There is no evidence upon which this Court can rely to believe that she will not, again, fail to follow through with her obligations to the Court. Her circumstances appear to be precisely the same as earlier this year.

The current c. 13 filing appears to be just another tactic to avoid the upcoming foreclosure auction, based upon unrealistic conjecture and hope, rather than a good faith effort to obtain the lawful protections of the Bankruptcy Code.

For these reasons, Middlesex Federal prays that this Honorable Court DENY Debtor's motion for an extension of the automatic stay.

In the event, however, that the Court deems it advisable to grant an extension of the automatic stay against Middlesex Federal regarding the auction of Unit 1, Middlesex Federal further prays;

1. That any such extension be for not more than sixty (60) days, with a new expiration date, before which a fully executed purchase and sale agreement for Unit 3, without unsatisfied contingencies (such as obtaining financing) be submitted to the Court; and

2. An independent real estate broker be employed to facilitate the sale; and,
3. The Debtor indicate to the Court in writing her plan to fully pay off all debt she owes to Middlesex Federal; and
4. The Court grant Middlesex Federal leave to further postpone the currently scheduled August 2, 2018 foreclosure auction of Unit 1 to a date not more than ten (10) days after the expiration of any new automatic stay; and/or
5. The Court grant such other fair and reasonable relief as it deems appropriate.

Middlesex Federal Savings, F.A.
By its Attorney,

/s/ Webb F. Primason

WEBB F. PRIMASON, BBO#406440
BRADLEY MOORE PRIMASON CUFFE & WEBER, LLP
85 Exchange Street, 4th Flr.
Lynn, MA 01901
Telephone: (781) 595-2050
wprimason@bradleymoorelaw.com

Date: July 11, 2018

CERTIFICATE OF SERVICE

I, WEBB F. PRIMASON, Esq. counsel for the Creditor Middlesex Federal Savings, F.A. do hereby certify that I this day served the attached Opposition Of Creditor Middlesex Federal Savings, F.A. To Debtor's Motion To Extend Automatic Stay by causing a true copy thereof to be delivered electronically to:

Carolyn Bankowski-13-12
13trustee@ch13boston.com

John Fitzgerald
USTPRRegion01.BO.ecf@USDOJ.GOV

Andrew S. Cannella, Esq.
BKECF@bmpe-law.com

and by mailing same, postage prepaid, to the debtor:

Joyce Feuerstein
600 Huron Avenue
Unit 1
Cambridge, MA 02138

Signed under the pains and penalties of perjury, this 11th day of July, 2018.

/s/ Webb F. Primason

WEBB F. PRIMASON

BBO#406440

wprimason@bradleymoorelaw.com

Date: July 11, 2018

MIDDLESEX FEDERAL

*We're here
to help.*

June 11, 2018

VIA HAND DELIVERY – DAVIS SQUARE BRANCH

Joyce Feuerstein
226 Main Street
Cotuit, MA 02635-2517

RE: Loan #98463757 and Loan #98477154 with Middlesex Federal Savings, F.A.
Mortgaged Properties: 226 Main Street, Barnstable (Cotuit), MA 02635 and 598-600 Huron
Avenue, Units #1 and #3, Cambridge, MA 02138

To Joyce Feuerstein:

As requested, you will find the enclosed mortgage loan payoff statements as of June 11, 2018 for the mortgage loans referenced above. These loan payoffs do not include additional legal fees and auctioneer costs related to the foreclosure process and auction scheduled for Thursday June 14, 2018.

If you have any questions regarding the loan payoff amounts, please contact Attorney Webb Primason of Bradley Moore Primason Cuffe & Weber LLP at (781) 595-2050.

The Bank hereby reserves its rights and remedies under the loan documents and reserves all rights to proceed with collection remedies, at its election, under the loan obligations. This communication is not to be construed as a waiver of any rights and remedies of the Bank under the loan documents.

Respectfully yours,



Ron Gauthier, Portfolio Manager
Middlesex Federal Savings, F.A.
One College Avenue
Somerville, MA 02144

www.middlesexfederal.com

NMLS# 417688

Office: 617-315-1571 FAX: 617-666-9578 Cell: 508-843-6981

Encl: Loan Payoff Statements for Loan #98463757 and Loan #98477154 dated June 11, 2018

c.c. Attorney Webb Primason

Davis Square

617-666-4700

Teele Square

www.MiddlesexFederal.com

Medford Square

NMLS#417688



One College Avenue, Somerville, MA 02144

June 11, 2018

Joyce Feuerstein
226 Main Street
Cotuit, MA 02635-2517

Re: Account Number: 98463757

Borrower: Joyce Feuerstein

Property: 226 Main Street
Cotuit, MA 02635-2517

598-600 Huron Ave # 1 & # 3
Cambridge, MA 02138

Dear Ms. Feuerstein:

The following is the amount necessary to pay the above-captioned loan in full as of 06-11-2018:


Note Interest	\$19,208.00
Note Balance	\$428,148.32
Late Charge Balance	\$5,386.33
Escrow Balance	\$1,734.99
Escrow Interest	-\$.23
Collection Charge	\$11,110.15
Appraisal Charge	\$1,250.00
TOTAL	\$466,837.56

Additional accrued interest of \$58.68 per diem is due us if we do not receive your settlement check by 06-11-2018. Please be advised that we have a general policy of delivering a release for a mortgage only after receipt of the proper payoff funds.

All payoff checks must be in the form of a bank check, a cashier's check, a lawyer's trustee account check or other funds if approved in advance, made payable to Middlesex Federal Savings.

If you should have any questions concerning any of the foregoing, please call the Loan Department at 617-666-4700 or write to us at Middlesex Federal Savings, P.O. Box 440303, Somerville, MA 02144.

Very truly yours,


Paula L. Campbell
Loan Department



One College Avenue, Somerville, MA 02144

June 11, 2018

Joyce Feuerstein
226 Main Street
Cotuit, MA 02635-2517

Re: Account Number: 98477154

Borrower: Joyce Feuerstein

Property: 598-600 Huron Ave # 1 & # 3
Cambridge, MA 02138

Dear Ms. Feuerstein:

The following is the amount necessary to pay the above-captioned loan in full as of 06-11-2018:

Note Interest	\$1,939.29
Note Balance	\$42,108.81
Late Charge Balance	\$231.36

TOTAL


\$44,279.46

Additional accrued interest of \$4.81 per diem is due us if we do not receive your settlement check by 06-11-2018. Please be advised that we have a general policy of delivering a release for a mortgage only after receipt of the proper payoff funds.

All payoff checks must be in the form of a bank check, a cashier's check, a lawyer's trustee account check or other funds if approved in advance, made payable to Middlesex Federal Savings.

If you should have any questions concerning any of the foregoing, please call the Loan Department at 617-666-4700 or write to us at Middlesex Federal Savings, P.O. Box 440303, Somerville, MA 02144.

Very truly yours,


Paula L. Campbell
Loan Department